

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO.2796 OF 2006

PETITIONER

Smt. Neera Bai, W/o Anil Yadav,
Sarpanch Gram Panchayat Pindri
(Balopat) Block & Tehsil Sarangarh
District Raigarh (C.G.)

Versus

RESPONDENTS

1. District Election Officer (Panchayat)/
Collector Raigarh
2. Deputy Election Officer (Panchayat)/
collector Raigarh
3. Returning Officer Panchayat Election
Tehsildar Sarangarh, Block & Tehsil
Sarangarh District Raigarh (C.G.)

Present : Mr. K.N. Nande, learned counsel for the petitioner.
Mr. Sanjay S. Agrawal, learned Govt. Adv., for the State of
Chhattisgarh.

ORAL ORDER

(Passed on 15th June 2006)

Against the 'no confidence motion' carried out against the petitioner vide resolution dated 17/03/2006, the petitioner has preferred a representation under Section 21(4) of the Panchayat Raj Adhinyam, 1993 (for short 'the Adhinyam') to the Collector, Raigarh district. The Collector granted stay on 10/04/2006. When the matter stood thus, there was a proposal to conduct election for the office of the Sarpanch of the Gram Panchayat, Pendri. The petitioner moved an application before the Election Officer to stay the election for the office of the Sarpanch of the Gram Panchayat, Pendri. The said application was rejected by the Election Officer vide order dated 29/05/2006 (Annexure-P/1).

(2) In the first instance, it needs to be noticed that the petitioner ought to have moved an application before the Collector, Raigarh for the relief. Such an application, admittedly, was not made before the Collector,

Raigarh. Secondly, unless the Collector, Raigarh sets aside the 'no confidence motion' carried out against the petitioner in pursuance of the representation made by the petitioner under Section 21(4) of the Adhiniyam, there is no legal bar for holding election for the office of the Sarpanch of Gram Panchayat, Pendri. I do not find any failure of justice also. If the petitioner succeeds before the Collector, Raigarh in pursuance of his representation made under Section 21(4) of the Adhiniyam, the election of any person for the office of the Sarpanch of the Gram Panchayat in pursuance of the no confidence motion carried out against the petitioner would fall to the ground and the petitioner would be entitled to continue in the office as Sarpanch. Looking from any angle, this is not a fit case to invoke the discretionary jurisdiction of this Court under Article 226 of the Constitution. The writ petition is, therefore, dismissed.

Sd/-
Chief Justice